

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No.
)	
AMERICAN IRON OXIDE COMPANY,)	
and MAGNETICS INTERNATIONAL,)	
INC.)	
Defendants.)	

COMPLAINT

The United States of America, by the authority of the Attorney General of the United States, through the undersigned attorneys, and at the request of the United States Environmental Protection Agency (EPA), alleges as follows:

NATURE OF ACTION

1. This is a civil action under Section 113(b) of the Clean Air Act (CAA), 42 U.S.C. § 7413(b), for injunctive relief and civil penalties against defendants American Iron Oxide Company (AMROX) and Magnetix International, Inc. (Magnetix) (collectively, Defendants) for violations of the CAA and the regulations promulgated pursuant thereto, specifically the National Emission Standards for Hazardous Air Pollutants for Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants, 40 C.F.R. Part 63, Subpart CCC (Subpart CCC NESHAP), and the Part 70 permitting requirements, 40 C.F.R. Part 70 (Title V), relating to the emission of hydrochloric acid and chlorine from Amrox's hydrochloric acid regeneration facilities in Portage, Indiana (Portage Facility), and Grandview, Indiana (known as the Rockport

Facility) and Magnetics' hydrochloric acid regeneration facility in Burns Harbor, Indiana (Magnetics Facility).

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and CAA Section 113(b), 42 U.S.C. § 7413(b), and over the Parties.

3. Venue lies in this District pursuant to CAA Section 113(b), 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1391(b) ,(c) and 1395(a), because some of the violations alleged in the Complaint are alleged to have occurred in, and Defendants conduct business in, this judicial district.

NOTICE TO STATE OF INDIANA

4. Notice of the commencement of this action has been given to the State of Indiana, as required by CAA Section 113, 42 U.S.C. § 113(b).

DEFENDANTS

5. Defendant American Iron Oxide Company, a/k/a "AMROX" is a joint venture partnership between International Steel Services, Inc., MCP Iron Oxide, Inc. and MAC-ROX, Inc. AMROX is registered in the State of New York and is qualified to do business in the State of Indiana. AMROX owns and operates hydrochloric acid regeneration plants located at 6300 US Highway Route 12, Portage, Indiana, and 2001 East County Road 700 North, Grandview, Indiana.

6. Defendant Magnetics International, Inc. is a wholly-owned subsidiary of International Steel Services, Inc., and is a corporation organized and existing under the laws of

the State of Pennsylvania, which is qualified to do business in the State of Indiana. Magnetics owns and operates a hydrochloric acid regeneration plant located at 1111 N. State Road 149, Burns Harbor, Indiana 46304 ("Magnetics Facility").

7. Each Defendant is a "person" within the meaning of CAA Section 302(e), 42 U.S.C. § 7602(e).

STATUTORY AND REGULATORY SCHEME

8. CAA Section 112(b)(1), 42 U.S.C. § 7412(b)(1), sets forth a list of hazardous air pollutants (HAPs), and requires that the Administrator of the EPA (the Administrator) periodically review and revise that list. Section 112(b)(1) further requires the Administrator, where appropriate, to add to the HAPs list pollutants that present or may present a threat of adverse human health or environmental effects.

9. Hydrochloric acid is listed in CAA Section 112(b)(1), 42 U.S.C. § 7412(b)(1), as a hazardous air pollutant, having been so designated by Congress.

10. Chlorine is listed in CAA Section 112(b)(1), 42 U.S.C. § 7412(b)(1), as a hazardous air pollutant, having been so designated by Congress.

11. CAA Section 112(d)(1), 42 U.S.C. § 7412(d)(1), directs EPA to adopt regulations establishing standards for the emission of the HAPs listed in CAA Section 112(b). These emission standards are known as the National Emission Standards for Hazardous Air Pollutants (NESHAP).

12. To the extent that it is not feasible to prescribe or enforce an emission standard for control of a hazardous air pollutant, CAA Section 112(h), 42 U.S.C. § 7412(h), authorizes the Administrator to promulgate "design, equipment, work practice, or operational" standards, which

are to be treated as emission standards.

13. In 1999, the Administrator promulgated NESHAP regulations for hydrochloric acid regeneration plants, which are codified at 40 C.F.R. Part 63, Subpart CCC, §§ 63.1155 to 63.1166. The Subpart CCC NESHAP regulations include provisions relating to emission standards, compliance dates, operational standards, performance testing, and monitoring, reporting and record keeping requirements. The Subpart CCC NESHAP was adopted by the EPA on June 22, 1999. See 64 Fed. Reg. 33218 (June 22, 1999).

14. The provisions of the Subpart CCC NESHAP apply to “all new and existing hydrochloric acid regeneration plants” that are “major sources” of HAPs. See 40 C.F.R. § 63.1155(a)(2).

15. 40 C.F.R. § 63.1156 defines “[hydrochloric acid regeneration plant]” as “the collection of equipment and processes configured to reconstitute fresh hydrochloric acid pickling solution from spent pickle liquor using a thermal treatment process.”

16. The general provisions applicable to all Part 63 NESHAP sources define “major source” as “any stationary source . . . that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants” See 40 C.F.R. § 63.2.

17. The general provisions applicable to all Part 63 NESHAP sources define “stationary source” as “any building, structure, facility, or installation which emits or may emit any air pollutant.” See 40 C.F.R. § 63.2.

18. The general provisions applicable to all Part 63 NESHAP sources define “owner or operator” as “any person who owns, leases, operates, controls or supervises a stationary

source.” See 40 C.F.R. § 63.2.

19. The general provisions applicable to all Part 63 NESHAP sources define “existing source” as “any source that is not a new source.” See 40 C.F.R. § 63.2.

20. The general provisions applicable to all Part 63 NESHAP sources define “affected source” as “any stationary source that is regulated by a relevant standard or requirement established pursuant to section 112 of the Act.” See 40 C.F.R. § 63.2.

21. The general provisions applicable to all Part 63 NESHAP sources define “new source” as “any affected source the construction or reconstruction of which is commenced after the Administrator first proposes a relevant emission standard under this part.” See 40 C.F.R. § 63.2.

22. The Subpart CCC NESHAP emission standards were proposed on September 18, 1997. See 62 Fed. Reg. 49052. Therefore, to be considered a new source under the Subpart CCC NESHAP, the source must have been constructed after September 18, 1997.

23. 40 C.F.R. § 1157(b)(1) of the Subpart CCC NESHAP provides, “[n]o owner or operator of an existing affected plant shall cause or allow to be discharged into the atmosphere from the affected plant any gases that contain [hydrochloric acid] in a concentration greater than 25 ppmv [parts per million by volume].”

24. 40 C.F.R. § 1158(b)(1) of the Subpart CCC NESHAP provides, “[n]o owner or operator of a new or reconstructed plant shall cause or allow to be discharged into the atmosphere from the affected plant any gases that contain [hydrochloric acid] in a concentration in excess of 12 ppmv.”

25. 40 C.F.R. § 1157(b)(2) of the Subpart CCC NESHAP provides, “[n]o owner or

operator of an existing affected plant shall cause or allow to be discharged into the atmosphere from the affected plant any gases that contain [chlorine] in a concentration in excess of 6 ppmv”

26. 40 C.F.R. § 1158(b)(2) of the Subpart CCC NESHAP provides, “[n]o owner or operator of a new or reconstructed plant shall cause or allow to be discharged into the atmosphere from the affected plant any gases that contain [chlorine] in a concentration in excess of 6 ppmv.”

27. CAA Section 502, 42 U.S.C. § 7661a, requires the Administrator to promulgate regulations establishing minimum elements of a permit program. These regulations, commonly called the “Title V regulations” were promulgated 1992 at 40 C.F.R. Part 70, §§ 70.1 through 70.11. 57 See Fed. Reg. 32295 (July 21, 1992). The Title V regulations are applicable to any major source and/or any source subject to a standard or other requirement under CAA Section 112 (Part 70 source). See 40 C.F.R. § 70.3.

28. CAA Section 502, 42 U.S.C. § 7661a, further provides that it shall be unlawful for any person to operate a major source, or any source subject to standards or regulations under CAA Section 7412, except in compliance with a permit issued pursuant to the Title V regulations.

29. CAA Section 112, 42 U.S.C. § 7142, defines “major source” as “any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any [HAP], or 25 tons per year or more of any combination of [HAPs].”

30. 40 C.F.R. § 70.2 defines “major source” as “[a] major source under Section 112 of

the Act”

31. 40 C.F.R. § 70.5 provides “[f]or each Part 70 source, the owner or operator shall submit a timely and complete permit application in accordance with this section.”

32. 40 C.F.R. § 70.5(b)(1)(i) provides, “a timely application for a source applying for a Part 70 permit for the first time is one that is submitted within 12 months after the source becomes subject to the permit program”

33. 40 C.F.R. § 70.7(b) provides, “no part 70 source may operate after the time it is required to submit a timely and complete application . . . except in compliance with a permit issued under a Part 70 program.”

34. Pursuant to CAA Section 113(b), any person who violates a requirement or prohibition of subchapter I of the CAA, which includes CAA Section 112, 42 U.S.C. § 7412, including a requirement or prohibition of any rule promulgated under the CAA, is subject to a civil action for permanent or temporary injunction and a civil penalty of not more than \$27,500 per day for each violation occurring on or after January 30, 1997, up to \$27,500 for violations occurring after January 30, 1997, and up to \$32,500 for violations occurring after March 15, 2004. 42 U.S.C. § 7413(b), as amended. See 69 Fed. Reg. 7121 (February 13, 2004).

GENERAL ALLEGATIONS PERTAINING TO AMROX’S PORTAGE FACILITY

35. The Portage Facility is a “hydrochloric acid regeneration plant” within the meaning of the Subpart CCC NESHAP. See 40 C.F.R. § 63.1155(a)(2).

36. AMROX is the “owner or operator” of the Portage Facility within the meaning of 40 C.F.R. § 63.2 because at all times relevant to this Complaint, AMROX leased, operated, controlled, or supervised that facility.

37. The Portage Facility is a “major source” of HAPs within the meaning of the Subpart CCC NESHAP at 40 C.F.R. § 63.1155(a) and 40 C.F.R. § 63.2.
38. The Portage Facility is a “major source” within the meaning of 40 C.F.R. § 70.2.
39. The Portage Facility was originally permitted on August 12, 1997.
40. AMROX began operations at the Portage Facility on January 20, 2000.
41. The Portage Facility is an “existing source” within the meaning of the Subpart CCC NESHAP at 40 C.F.R. § 1157(b) and 40 C.F.R. § 63.2.
42. The Portage Facility is an “affected source” within the meaning of the Subpart CCC NESHAP at 40 C.F.R. § 1157(b) and 40 C.F.R. § 63.2.
43. The Portage Facility has two identical process lines that utilize ovens which AMROX has designated as “Roasters” A and B.
44. Roasters are large ovens which are used to separate hydrochloric acid gas from iron oxide particulate.
45. For the purpose of demonstrating compliance with the Subpart CCC NESHAP at its Portage Facility, emissions from one roaster stack are representative of the emissions from the other roaster stack.
46. A September 26, 2001, stack test conducted on Roaster A at the Portage Facility showed the emission levels of hydro-chloric acid from the Roaster A stack to be 53.9 ppmv.
47. An October 17, 2001, stack test conducted on Roaster B at the Portage Facility showed the emission levels of hydro-chloric acid from the Roaster B stack to be 42.07 ppmv.
48. A February 4, 2002, stack test conducted on Roaster B at the Portage Facility showed the emission levels of chlorine from Roaster B to be 20.59 ppmv.

GENERAL ALLEGATIONS PERTAINING TO AMROX'S ROCKPORT FACILITY

49. The Rockport Facility is a "hydrochloric acid regeneration plant" within the meaning of the Subpart CCC NESHAP at 40 C.F.R. § 63.1155(a)(2).

50. AMROX is the "owner or operator" of the Rockport Facility within the meaning of 40 C.F.R. § 63.2 because at all times relevant to this Complaint, AMROX leased, operated, controlled, or supervised that facility.

51. The Rockport Facility is a "major source" of HAPs within the meaning of the Subpart CCC NESHAP at 40 C.F.R. § 63.1155(a) and 40 C.F.R. § 63.2.

52. The Rockport Facility was permitted on December 30, 1998.

53. AMROX began operations at the Rockport facility on December 6, 1999.

54. The Rockport Facility is a "new source" within the meaning of the Subpart CCC NESHAP at 40 C.F.R. § 1158(b) and 40 C.F.R. § 63.2.

55. The Rockport Facility is an "affected source" within the meaning of the Subpart CCC NESHAP at 40 C.F.R. § 1158(b) and 40 C.F.R. § 63.2.

56. The Rockport Facility has two identical process lines which utilize roasters and which AMROX has designated as Process Lines 1 and 2.

57. Roasters are large ovens which are used to separate hydrochloric acid gas from iron oxide particulate.

58. In terms of demonstrating compliance with the Subpart CCC NESHAP at its Rockport Facility, emissions from one process line stack are representative of the emissions from the other process line stack.

59. An April 11, 2001, stack test conducted on Process Line 1 at the Rockport Facility

showed the emission levels of chlorine to be 48.27 ppmv.

GENERAL ALLEGATIONS PERTAINING TO THE MAGNETICS FACILITY

60. The Magnetism Facility is a "hydrochloric acid regeneration plant" within the meaning of the Subpart CCC NESHAP. See 40 C.F.R. § 63.1155(a)(2).

61. Magnetism is the "owner or operator" of the Magnetism Facility within the meaning of 40 C.F.R. § 63.2 because at all times relevant to this Complaint, Magnetism leased, operated, controlled, or supervised that facility.

62. The Magnetism Facility is a major source of HAPs within the meaning of the Subpart CCC NESHAP at 40 C.F.R. § 63.1155(a) and 40 C.F.R. § 63.2.

63. The Magnetism Facility was permitted on July 12, 1990. The original permit was issued to "Inland Steel Industries: Magnetism International Inc."

64. Magnetism began operations at the Magnetism Facility in 2000.

65. The Magnetism Facility is an "existing source" within the meaning of the Subpart CCC NESHAP at 40 C.F.R. § 1157(b) and 40 C.F.R. § 63.2.

66. The Magnetism Facility is an "affected source" within the meaning of the Subpart CCC NESHAP at 40 C.F.R. § 1157(b) and 40 C.F.R. § 63.2.

67. The Magnetism Facility has two identical process lines, which contain Roasters that Magnetism has designated as Acid Regeneration Units A and B.

68. Roasters are large ovens which are used to separate hydrochloric acid gas from iron oxide particulate.

69. For the purpose of demonstrating compliance with the Subpart CCC NESHAP at its Magnetism Facility, emissions from one roaster stack are representative of the emissions from

the other roaster stack.

70. A December 20, 2002, stack test on Acid Regeneration Unit B at the Magnetics Facility showed emissions levels of hydrochloric acid from Acid Regeneration Unit B to be 53.8 ppmv.

71. A December 20, 2002, stack test conducted on Acid Regeneration Unit B at the Magnetics Facility showed the emission levels of chlorine from Acid Regeneration Unit B to be 38.3 ppmv.

FIRST CLAIM FOR RELIEF
HYDROCHLORIC ACID EMISSIONS VIOLATIONS - PORTAGE FACILITY

72. Paragraphs 1 through 48 are hereby incorporated by reference.

73. Stack tests conducted on Roaster A on September 26, 2001, at the Portage Facility, demonstrated that the emissions levels of hydrochloric acid exceeded the limits in 40 C.F.R. § 63.1157(b)(1) and, therefore, violated CAA Section 112, 42 U.S.C. § 7412.

74. Pursuant to CAA Section 113(b), AMROX is subject to civil penalties of not more than \$27,500 per day for each violation of CAA Section 112, 42 U.S.C. § 7412, and the Subpart CCC NESHAP, 40 C.F.R. § 63.1157(b), occurring on or after January 30, 1997, and up to \$32,500 for violations occurring after March 15, 2004. 42 U.S.C. § 7413(b), as amended. See 69 Fed. Reg. 7121 (February 13, 2004).

75. Unless restrained by order of this Court, AMROX's violation of CAA Section 112, 42 U.S.C. § 7412, and the Subpart CCC NESHAP, 40 C.F.R. § 63.1157(b), are likely to continue. AMROX, therefore, is subject to injunctive relief pursuant to CAA Section 113(b), 42 U.S.C. § 7413(b).

SECOND CLAIM FOR RELIEF
HYDROCHLORIC ACID EMISSIONS VIOLATIONS - PORTAGE FACILITY

76. Paragraphs 1 through 48 are hereby incorporated by reference.

77. Stack tests conducted on Roaster B on October 17, 2001, at the AMROX Portage Facility, demonstrated that the emission levels of hydrochloric acid exceeded the limits in 40 C.F.R. § 63.1157(b)(1) and, therefore, violated CAA Section 112, 42 U.S.C. § 7412.

78. Pursuant to CAA Section 113(b), 42 U.S.C. § 7413(b), AMROX is subject to civil penalties of not more than \$27,500 per day for each violation of CAA Section 112, 42 U.S.C. § 7412, and the Subpart CCC NESHAP, 40 C.F.R. § 63.1157(b), occurring on or after January 30, 1997, and up to \$32,500 for violations occurring after March 15, 2004. 42 U.S.C. § 7413(b), as amended. See 69 Fed. Reg. 7121 (February 13, 2004).

79. Unless restrained by order of this Court, AMROX's violation of CAA Section 112, 42 U.S.C. § 7412, and the Subpart CCC NESHAP, 40 C.F.R. § 63.1157(b), are likely to continue. AMROX, therefore, is subject to injunctive relief pursuant to CAA Section 113(b), 42 U.S.C. § 7413(b).

THIRD CLAIM FOR RELIEF
CHLORINE EMISSIONS VIOLATIONS - PORTAGE FACILITY

80. Paragraphs 1 through 48 are hereby incorporated by reference.

81. Stack tests conducted on Roaster A stack on February 4, 2002, at the AMROX Portage Facility, demonstrated that the emission levels of chlorine exceeded the limits in 40 C.F.R. § 63.1157(b)(2) and, therefore, violated CAA Section 112, 42 U.S.C. § 7412.

82. Pursuant to CAA Section 113(b), 42 U.S.C. § 7413(b), AMROX is subject to civil penalties of not more than \$27,500 per day for each violation of CAA Section 112, 42 U.S.C.

§ 7412, and the Subpart CCC NESHAP, 40 C.F.R. § 63.1157(b), occurring on or after January 30, 1997, and up to \$32,500 for violations occurring after March 15, 2004. 42 U.S.C. § 7413(b), as amended. See 69 Fed. Reg. 7121 (February 13, 2004).

83. Unless restrained by order of this Court, AMROX's violation of CAA Section 112, 42 U.S.C. § 7412, and the Subpart CCC NESHAP, 40 C.F.R. § 63.1157(b), are likely to continue. AMROX, therefore, is subject to injunctive relief pursuant to CAA Section 113(b), 42 U.S.C. § 7413(b).

FOURTH CLAIM FOR RELIEF
TITLE V PERMIT VIOLATION – PORTAGE FACILITY

84. Paragraphs 1 through 48 are hereby incorporated by reference.

85. The Portage Facility has been a Part 70 source since the facility startup in January, 2000.

86. AMROX submitted its Part 70 application on July 27, 2001.

87. AMROX failed to submit its Title V permit application for the Portage Facility within 12 months of becoming a Part 70 source, in violation of 40 C.F.R. § 70.5(a) and CAA Section 502, 42 U.S.C. § 7661a.

88. Pursuant to CAA Section 113(b), 42 U.S.C. § 7413(b), AMROX is subject to civil penalties of not more than \$27,500 per day for each violation of CAA Section 502, 42 U.S.C. § 7661a, and the Title V regulations at 40 C.F.R. § 70.7(b), occurring on or after January 30, 1997, and up to \$32,500 for violations occurring after March 15, 2004. 42 U.S.C. § 7413(b), as amended. See 69 Fed. Reg. 7121 (February 13, 2004).

FIFTH CLAIM FOR RELIEF
TITLE V PERMIT VIOLATION – PORTAGE FACILITY

89. Paragraphs 1 through 48, and 84 through 88 are hereby incorporated by reference.

90. Since January 20, 2000, AMROX has operated the Portage Facility without a Part 70 permit in violation of 40 C.F.R. § 70.7(b) and CAA Section 502, 42 U.S.C. § 7661a.

91. Pursuant to CAA Section 113(b), AMROX is subject to civil penalties of not more than \$27,500 per day for each violation of CAA Section 502, 42 U.S.C. § 7661a, and the Title V regulations at 40 C.F.R. § 70.7(b), occurring on or after January 30, 1997, and up to \$32,500 for violations occurring after March 15, 2004. 42 U.S.C. § 7413(b), as amended. See 69 Fed. Reg. 7121 (February 13, 2004).

SIXTH CLAIM FOR RELIEF
HYDROCHLORIC ACID EMISSIONS VIOLATIONS - ROCKPORT FACILITY

92. Paragraphs 1 through 34 and 49 through 59, are hereby incorporated by reference.

93. Stack tests conducted on Process Line 1 on April 11, 2001, at the AMROX Rockport Facility, demonstrated that the emission levels of hydrochloric acid exceeded the limits in 40 C.F.R. § 63.1158(b)(1) and, therefore, violated CAA Section 112, 42 U.S.C. § 7412.

94. Pursuant to CAA Section 113(b), 42 U.S.C. § 7413(b), AMROX is subject to civil penalties of not more than \$27,500 per day for each violation of CAA Section 112, 42 U.S.C. § 7412, and the Subpart CCC NESHAP, 40 C.F.R. § 63.1157(b), occurring on or after January 30, 1997, and up to \$32,500 for violations occurring after March 15, 2004. 42 U.S.C. § 7413(b), as amended. See 69 Fed. Reg. 7121 (February 13, 2004).

95. Unless restrained by order of this Court, AMROX's violation of CAA Section 112, 42 U.S.C. § 7412, and the Subpart CCC NESHAP, 40 C.F.R. § 63.1158(b), are likely to

continue. AMROX, therefore, is subject to injunctive relief pursuant to CAA Section 113(b), 42 U.S.C. § 7413(b).

SEVENTH CLAIM FOR RELIEF
CHLORINE EMISSIONS VIOLATIONS - ROCKPORT FACILITY

96. Paragraphs 1 through 34 and 49 to 59 are hereby incorporated by reference.

97. Stack tests conducted on Process Line 1 on April 11, 2001, at the AMROX Rockport Facility, demonstrated that the emission levels of chlorine exceeded the limits in 40 C.F.R. § 63.1158(b)(2) and, therefore, violated CAA Section 112, 42 U.S.C. § 7412.

98. Pursuant to CAA Section 113(b), 42 U.S.C. § 7413(b), AMROX is subject to civil penalties of not more than \$27,500 per day for each violation of CAA Section 112, 42 U.S.C. § 7412, and the Subpart CCC NESHAP, 40 C.F.R. § 63.1157(b), occurring on or after January 30, 1997, and up to \$32,500 for violations occurring after March 15, 2004. 42 U.S.C. § 7413(b), as amended. See 69 Fed. Reg. 7121 (February 13, 2004).

99. Unless restrained by order of this Court, AMROX's violation of CAA Section 112, 42 U.S.C. § 7412, and the Subpart CCC NESHAP, 40 C.F.R. § 63.1158(b), are likely to continue. AMROX, therefore, is subject to injunctive relief pursuant to CAA Section 113(b), 42 U.S.C. § 7413(b).

EIGHTH CLAIM FOR RELIEF
HYDROCHLORIC ACID EMISSIONS VIOLATIONS - MAGNETICS FACILITY

100. Paragraphs 1 through 34 and 60 through 71 are hereby incorporated by reference.

101. Stack tests conducted on the Acid Regeneration Unit B stack on December 20, 2002, at the Magnetics Facility, demonstrated that the emission levels of hydrochloric acid exceeded the limits in 40 C.F.R. § 63.1157(b)(1) and, therefore, violated CAA Section 112, 42

U.S.C. § 7412.

102. Pursuant to CAA Section 113(b), 42 U.S.C. § 7413(b), Magnetics is subject to civil penalties of not more than \$27,500 per day for each violation of CAA Section 112, 42 U.S.C. § 7412, and the Subpart CCC NESHAP, 40 C.F.R. § 63.1157(b), occurring on or after January 30, 1997, and up to \$32,500 for violations occurring after March 15, 2004. 42 U.S.C. § 7413(b), as amended. See 69 Fed. Reg. 7121 (February 13, 2004).

103. Unless restrained by order of this Court, Magnetics' violation of CAA Section 112, 42 U.S.C. § 7412, and the Subpart CCC NESHAP, 40 C.F.R. § 63.1157(b), are likely to continue. Magnetics, therefore, is subject to injunctive relief pursuant to CAA Section 113(b), 42 U.S.C. § 7413(b).

NINTH CLAIM FOR RELIEF
CHLORINE EMISSIONS VIOLATIONS- MAGNETICS FACILITY

104. Paragraphs 1 through 34 and 60 through 71 are hereby incorporated by reference.

105. Stack tests conducted on the Acid Regeneration Unit B stack on December 20, 2002 at the Magnetics Facility, demonstrated that the emission levels of chlorine exceeded the limits in 40 C.F.R. § 63.1158(b)(2) and, therefore, violated CAA Section 112, 42 U.S.C. § 7412.

106. Pursuant to CAA Section 113(b), 42 U.S.C. § 7413(b), Magnetics is subject to civil penalties of not more than \$27,500 per day for each violation of CAA Section 112, 42 U.S.C. § 7412, and the Subpart CCC NESHAP, 40 C.F.R. § 63.1157(b), occurring on or after January 30, 1997, and up to \$32,500 for violations occurring after March 15, 2004. 42 U.S.C. § 7413(b), as amended. See 69 Fed. Reg. 7121 (February 13, 2004).

107. Unless restrained by order of this Court, Magnetics' violation of CAA Section

112 , 42 U.S.C. § 7412, and the Subpart CCC NESHAP, 40 C.F.R. § 63.1158(b), are likely to continue. Magnetics, therefore, is subject to injunctive relief pursuant to CAA Section 113(b), 42 U.S.C. § 7413(b).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, United States of America, respectfully requests that this Court:

- a Enjoin the Defendants from further violations of the Clean Air Act, the Subpart CCC NESHAP and Title V;
- b Assess civil penalties against Defendants of not more than \$32,500 per day for each violation of the Clean Air Act, the Subpart CCC NESHAP and Title V; and
- c. Award other such relief as this Court deems just and proper.

Respectfully submitted,

W. BENJAMIN FISHEROW
Deputy Chief
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice

GREGORY L. JUKYS
Senior Attorney
Environmental Enforcement Section
P.O. Box 7611
Washington, D.C. 20044
202-514-2068/616-6584 (FAX)

JOSEPH V. BOKKELEN
United States Attorney
Northern District of Indiana

WAYNE AULT
Assistant United States Attorney
5400 Federal Plaza, Suite 1500
Hammond, Indiana 46320
219-937-5500/219-852-2770(FAX)

OF COUNSEL

CYNTHIA A. KING
Associate Regional Counsel
U.S. Environmental Protection Agency
Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604